HONOURABLE MS JUSTICE G.ROHINI

Writ Petition No.13174 of 2007

Dated : 03-07-2007

Between:

Kodumuri Parvathi,
K.P.Jagannadhapuram,
Palvoncha Mandal,
Khammam District.

……Petitioner

and

The Assistant Commissioner,
Endowments Department, Khammam and others

……..Respondents.

Writ Petition No. 13175 of 2007

Between:

Nallamothu Keshamma,
K.P.Jagannadhapuram,
Palvoncha Mandal,
Khammam District.

……Petitioner

and

The Assistant Commissioner,
Endowments Department, Khammam and others.

……..Respondents.

Writ Petition No. 13176 of 2007

Between:

Nalamothu Rambabu
K.P.Jagannadhapuram,
Palvoncha Mandal,
Khammam District.

……Petitioner

and

The Assistant Commissioner,
Endowments Department, Khammam and others

……..Respondents.

Writ Petition No. 13179 of 2007

Between:

Nakirikanti Bhasker,
K.P.Jagannadhapuram,
Palvoncha Mandal,
Khammam District.

……Petitioner

and

The Assistant Commissioner,
Endowments Department, Khammam and others

…….Respondents.

Writ Petition No. 13180 of 2007

Between:

Tula Surya Kumari,
K.P.Jagannadhapuram,
Palvoncha Mandal,
Khammam District.

……Petitioner

and

The Assistant Commissioner,
Endowments Department, Khammam and others

……..Respondents.

Writ Petition No. 13184 of 2007

Between:

Gandham Satyanarayana,
K.P.Jagannadhapuram,
Palvoncha Mandal,
Khammam District.

.....Petitioner

and

The Assistant Commissioner,
Endowments Department, Khammam and others

.....Respondents.

HONOURABLE MS JUSTICE G.ROHINI

W.P.Nos.13174, 13175, 13176, 13179, 13180 and 13184 of 2007

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COMMON ORDER:

Since common questions of fact and law arise for consideration, all these matters are heard together and decided by this common order.

The petitioners, in all these writ petitions, are in occupation of shop Nos.1 to 7 belonging to the 2nd

respondent-Sri Kanaka Durga Devastanam.

It is claimed that the shops were let out to them on payment of rent long back and since then they have been in possession and enjoyment of the same.

It is not in dispute that the 2nd respondent initiated proceedings for eviction of the writ petitioners from the shops in question by filing separate applications before the 3rd respondent-Deputy Commissioner of Endowments under Section 83 of the A.P Charitable & Hindu Religious Institutions & Endowments Act 1987 (for short 'the Act 30 of 1987').

While the matters were coming up for cross-examination of P.W.1 i.e. the witness on behalf of the 2nd respondent-Devastanam, the petitioners failed to appear and consequently the matters were posted on for orders. In the circumstances, the petitioners filed applications under Section 151 of C.P.C. with a prayer to reopen the case so as to enable them to cross-examine P.W.1 and also to lead evidence on their side. By separate orders dated 18.4.2007, the 3rd respondent allowed the applications subject to the condition that the petitioners deposit a part of the amounts allegedly due from them towards rents. The said orders passed by the 3rd respondent dated 18.4.2007 are challenged in these writ petitions contending *inter alia* that the condition imposed

for depositing a part of the alleged arrears of rent is onerous and not sustainable in law. It is further contended that since the 2nd respondent has already filed civil suits for recovery of the amounts allegedly due from the petitioners towards rents and the same are pending before the competent Court,

the 3rd respondent has no jurisdiction to direct depositing a part of the alleged arrears as a condition for reopening the eviction petition filed under Section 83 of the Act 30 of 1987.

I have heard the learned counsel for the petitioners, the learned Government Pleader for Endowments appearing for the respondents and perused the material on record.

It is to be noted that Section 149 of the Act, contemplates that the enquiry under the Act 30 of 1987 shall be made in accordance with the procedure applicable under Civil Procedure Code to the trial of suits or the hearing of the of the appeals as the case may be. Hence, the Deputy Commissioner of Endowments during the enquiry under Section 83 of the Act is competent to pass appropriate orders in exercise of inherent powers under Section 151 of C.P.C. to meet the ends of justice or to prevent abuse of process of the Court. That apart, Section 83 (6) of the Act also empowers the Deputy

Commissioner during the pendency of the pendency of the proceedings under Section 83 of the Act, to order the encroacher to deposit certain amount in consideration of the use and occupation of the properties in question. The Rules made under G.O.Ms.No.645, Revenue Endowments-1, dated 30.06.1989 in exercise of the powers conferred under Section 83 (6) of the Act 30 of 1987 also made it clear that the provisions of Civil Procedure Code shall apply as far as applicable to the enquiry under Section 83 (4) of the Act.

On a combined reading of the above provisions, I am unable to hold that the impugned orders are without jurisdiction or beyond the scope of the enquiry under Section 83 of the Act much less the amounts are unreasonably high.

For the aforementioned reasons, all the writ petitions are dismissed.

However, having regard to the facts and circumstances, the petitioners are hereby granted liberty to seek extension of time for depositing the amounts by making appropriate applications before the 3rd respondent in case the main petitions under Section 83 of the Act have not yet been disposed of. No costs.

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(G.ROHINI, J)

Dated: 03-07-2007

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